



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2500214

**Applicant Name:** Arnel Valmonte for Seattle Public Utilities

**Address of Proposal:** 3419 NW 54<sup>th</sup> Street

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit for the installation of a viewing deck and the planting of native vegetation including 11 new trees (four evergreen trees and seven deciduous trees) in an environmentally critical area (ECA). Some existing vegetation including three evergreen shrubs and two maple trees will be removed and additional impervious surface will be added to provide access at the site to meet the Americans with Disability Act (ADA). Environmental documents prepared by Seattle Public Utilities (SPU)

The following approvals are required:

**Shoreline Substantial Development Permit:** To install a 910 square foot overlook/viewing platform and retaining wall and new impervious surface for public open space. (Section 23.60. Seattle Municipal Code)

**BACKGROUND DATA**

Site Location and Description

The proposal site is located at 3419 NW 54<sup>th</sup> Street on the shore of Salmon Bay downstream of the Hiram M. Chittenden Locks. The site includes three parcels and the 34<sup>th</sup> Ave NW street end; the first parcel is approximately 7,611 s.f. and adjacent to the shoreline with approximately 182 linear ft. of shoreline; the second parcel is approximately 12,772 s.f. and adjacent and landward of the first lot; and the third parcel is approximately 53,438 s.f. and east of the first two parcels. The second parcel is

owned by Seattle Department of Transportation and the third parcel is owned by the Canal restaurant and only a small portion of this parcel is part of this proposal.

### Zoning

The site is zone C1-30 with the Urban Stable (US) Shoreline Master Program designation.

### Area Development

North: Northwest 54<sup>th</sup> Street is to the north and multifamily development in the L-3 zone.  
East: Seattle Department of Transportation street end Right of Way in the C1-30 and C1-40 zone and Urban Stable Shoreline Environment.  
South: C1-30 and Conservancy Navigation with the guide walls of the Hiram M. Chittenden Locks located in this area.  
West: C1-30 and Urban Stable Shoreline with a single family house on this site.

## **BACKGROUND INFORMATION**

### Environmental Critical Areas

The site is located in an ECA Steep Slope environment. As a result of ECA steep slope review, development into the steep slope area was minimized and a condition of project is to minimize the impacts of the irrigation system that will be installed to facilitate the establishment of the native vegetation that will be planted at the site.

### Proposal Description

The applicant proposes to install open space features at the site. Approximately 14,000 s.f. of the site will be impacted. The property includes Seattle Department of Transportation street right-of-way and street end, Seattle Public Utilities Property and property owned by the Canal restaurant. The goal of the project is to provide a shoreline amenity for the area by providing an overlook area with benches and a place to lock bikes. Additionally, non-native vegetation will be removed and native vegetation will be planted in the proposed area. This native vegetation will benefit the shoreline environment because of its proximity to the shoreline. Additionally, educational signs will be placed at the site. The material on these signs will include information about the history of the area and information about the aquatic environment of Salmon Bay.

### Public Comment

No comment letters were received during the comment period that ended on June 24, 2005.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of Chapter 23.60; and*
- C. *The provisions of Chapter 173-27 WAC*

*Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.*

**A. The Policies and Procedures of Chapter 90.58 RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy aims to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

**B. The Regulations of Chapter 23.60**

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies as referenced in SMC 23.60.004, meets the development

standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designation for the site is Urban Stable (SMC 23.60.720) for the shore-land area of the site. Open space uses are permitted outright in this shoreline.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the US environment is stated in SMC 23.60.220.C 7. The applicable sections of this regulation to the current proposal are: to provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses... and to preserve and enhance views of the water from adjacent streets.

This proposal as designed and conditioned meets the intent and purpose of the US environment.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must in part:

- 1) minimize and any increases in surface runoff and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected;
- 2) utilize permeable surfacing where practicable to minimize surface water accumulation and runoff;
- 3) control erosion during project construction and operation;
- 4) be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

- 5) All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- 6) All shoreline development and uses shall be designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area;
- 7) All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization landfills, levees, dikes, groins, jetties, or substantial site regrades.

#### Short-term Impacts

The following temporary or construction-related impacts are expected: Construction material and equipment pose some potential danger of water and nearshore contamination and shoreline erosion. The contamination and erosion could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, it is necessary to condition the project to require that during construction Best Management Practices will be used to minimize the amount of erosion that leaves the site during rainfall events.

#### Long-term Impacts

The shoreline environment is important to many species including Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999. Chinook are known to inhabit Salmon Bay including the proposed project area.

This project is proposed to occur in the riparian area of Salmon Bay. The riparian area is important to continuing shoreline processes such as allochthonous input from vegetation to the aquatic environment. This allochthonous input provide valuable prey resources to Chinook salmon and other aquatic species.

Potential long-term impacts on juvenile Chinook salmon and the aquatic environment include the removal of vegetation at the shoreline. Additionally, the increase of impervious surface in the shoreline environment decreases the shoreline habitat for both aquatic and terrestrial animals.

In order to meet the shoreline general development standards which include the requirement to locate, design, construct and manage the use and develop to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion and to minimizes adverse impacts to surrounding land and water uses, Seattle Public Utilities has included mitigation measures in the project and DPD has imposed conditions on this project. These mitigation measures and conditions are listed below.

- Minimize the removal of vegetation.
- Plant native vegetation along the shoreline.
- Include eleven trees in the planting plan.
- Maintain the vegetation at the site for the life of the project.
- Include the use of semi pervious material and non-toxic decking.

Each of these mitigation measures and conditions are intended to minimize impacts on the shoreline environment, which in turn will minimize impacts on juvenile salmon habitat. Collectively they are believed to help improve the riparian area of the site by maintaining native vegetation and planting native trees and shrubs along the shoreline which will increase the allocthonous input of insects and detritus to Lake Washington providing food for juvenile salmonids and nutrients for other aquatic organisms.

The proposed open space and recreational use, as conditioned, is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline environment, to water quality, to the natural shoreline processes, and the surrounding land and water uses.

SMC 23.60.630 - Development Standards for the US Environment

This proposal meets the height, lot coverage, view corridor and public access requirements for the US shoreline environment.

**C. The Provisions of Chapter 173-27 WAC**

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing analysis, the proposal is consistent with the criteria for a shoreline substantial development permit and the special use criteria for this environment and may be approved.

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED**.

## **CONDITIONS**

### **During Construction**

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the Master Use Permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. Prior to commencement of work the owner(s) and/or responsible party(ies) shall notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152), including the requirements set forth in conditions of the MUP.
2. No debris, construction material, and/or toxic material shall enter Salmon Bay during the proposed construction work.
3. Appropriate best management practices (BMPs) shall be employed to prevent, debris, construction material and/or toxic material, including soil erosion, from entering Salmon Bay during the proposed shoreline work. BMPs shall include the installation of a silt fence to contain any sediment laden runoff from the site.
4. Native vegetation exclusively shall be planted at the site.
5. Vegetation monitoring is required by the applicant to ensure eighty (80) percent or greater survival of the vegetation planted at this project site after five (5) years from the time of planting. Contingency measures shall include replacement of plants that do not survive with similar native species.

### **Non-appealable ECA Conditions**

6. The irrigation system will be monitored so that the operation of the system does not negatively impact the steep slope area that is adjacent to the native vegetation planting area.

Signature: \_\_\_\_\_ (signature on file) Date: August 17, 2006

Margaret M. Glowacki  
Fisheries Biologist/Salmon Planner

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